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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3266 OF 2004
IN
SUIT NO.3172 OF 2004

Mugdha Pradip Hedavkar and others).. Plaintiffs

Versus

Vandana Vijay Hedavkar and another).. Defendants

ALONG WITH

NOTICE OF MOTION NO.3708 OF 2004
IN
SUIT NO.3172 OF 2004

Mugdha Pradip Hedavkar and others).. Plaintiffs

Versus

Vandana Vijay Hedavkar and another).. Defendants

Mr.S.S. Shah i/b.Ms.Jyotsna N. Pandhi for the Plaintiffs.

Ms.Varsha Palav for Defendant No.1.

Mr.R.M. Bhandari for Defendant No.2.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 23RD JUNE 2006

P.C.:

. The dispute has arisen in respect of Gala No.2B, Hedavkar Wadi No.3, Gokhale Road, Dadar (West), Bombay 400 028. The husband of Plaintiff No.1 and the husband of Defendant No.2 were brothers. Defendant No.2 is the mother in law of Plaintiff No.1 According to Plaintiff

No.1, who is the mother of Plaintiff Nos.2 and 3, she has a 1/3rd share in the suit gala. The Plaintiffs are, therefore, seeking appointment of the Court Receiver to protect the property and in order that they receive income from that property. Defendant No.2 has supported the case of the Plaintiffs.

2. The prayer made in the Motion is strenuously opposed on behalf of Defendant No.1. The suit gala is situate in a building owned by the Hedavkar family. The tenancy of the gala stood in the name of the partnership firm of which the husband of Plaintiff No.1 was a partner. The Suit has been filed for a declaration that the partnership firm stands dissolved after the death of Plaintiff No.1's husband and for accounts. According to Defendant No.1, gala should be partitioned and each of the parties be put in possession of their 1/3rd share. In my view, this will not be possible at this stage.

3. Notice of Motion made absolute in terms of prayer clause (b).

4. The Court Receiver is appointed receiver in respect of Gala No.2B, Hedavkar Wadi No.3, Gokhale Road, Dadar (West), Bombay 400 028. The Court Receiver shall take physical possession of the said gala and appoint an agent by inviting bids by public auction. The Court

Receiver will permit the Plaintiffs and the Defendants to match the highest bid received by him. In the event the Plaintiffs or the Defendants are able to match the highest bid, the Court Receiver to allow them to act as agent of the Court Receiver after signing the agency agreement on the usual terms and conditions.

5. Parties to act on authenticated copy of this order.